

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**CASE NO.: 3:06-cr-8-2
JUDGE BAILEY**

DARRYL F. CLINKSCALE,

Defendant.

**REPORT AND RECOMMENDATION TO THE DISTRICT JUDGE
RECOMMENDING THAT THE DISTRICT COURT FIND NO PROBABLE
CAUSE TO HOLD A FINAL REVOCATION HEARING BEFORE THE
DISTRICT JUDGE AND RELEASE THE DEFENDANT ON THE
PREVIOUSLY ENTERED TERMS OF HIS SUPERVISED RELEASE**

On November 28, 2011, came the United States of America (“Government”), by counsel Paul T. Camilletti, Assistant United States Attorney, and the Defendant, Darryl F. Clinkscale, in person and by counsel, Nicholas J. Compton, Assistant Federal Public Defender, for a hearing on the Petition for Warrant or Summons for Offender Under Supervision.

On May 9, 2006, the Honorable W. Craig Broadwater, United States District Judge, sentenced the Defendant to 70 months imprisonment followed by a four-year term of supervised release. On February 21, 2008, the Honorable John Preston Bailey, Chief United States District Judge, entered an Order, effective March 3, 2008, reducing the Defendant’s sentence to 27 months imprisonment followed by a four-year term of supervised release. On February 22, 2008, Chief Judge Bailey entered an Order, effective March 3, 2008, reducing the Defendant’s sentence to time served. On March 3, 2008, the Defendant commenced the supervised release portion of his amended sentence. On November 16, 2011, the Probation Office filed a petition with the Court

recommending action based upon alleged violations of the Defendant's supervised release.

Based on the evidence presented, the Court **FINDS** that pursuant to Rule 32.1, there is no probable cause that the Defendant violated a condition of supervised release. Accordingly, it is **RECOMMENDED** that the Petition for Warrant or Summons for Offender Under Supervision be **DISMISSED**. It is further **RECOMMENDED** that the Defendant be **RELEASED** on the previously entered terms of his supervised release, along with the following additional terms:

1. The Defendant shall attend substance abuse and anger management counseling with Dr. Anita Ryan;
2. The Defendant shall not drink alcohol while driving and shall not drink alcohol prior to driving.

Any party may, within fourteen (14) days after being served with a copy of this Report and Recommendation, file with the Clerk of the Court written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. A copy of such objections should also be submitted to the Honorable John Preston Bailey, Chief United States District Judge. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v Schronce*, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984).

The Court directs the Clerk of the Court to provide a copy of this Report and Recommendation to all parties who appear *pro se* and all counsel of record, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the

Northern District of West Virginia.

DATED: November 28, 2011



DAVID J. JOEL
UNITED STATES MAGISTRATE JUDGE